

Between justice and reconciliation: The survivors of Rwanda

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This article examines the dilemmas of post-genocide Rwanda, where society finds itself caught between justice and reconciliation. One of the major challenges for Rwandans today is to engender reconciliation in a deeply wounded nation and do justice to both victims and perpetrators. It is difficult to affirm the victims, punish the perpetrators and at the same time bring about reconciliation between them. Yet there are unequivocal claims, especially from the victims, that there can be no justice without reparation and there can be no reconciliation without justice. To bring about justice and reconciliation, the Gacaca process was put in place, but it has turned out to be a source of fear for the perpetrators, who are desperate to bury the evidence by intimidating the survivors, and for the survivors, who are now living in fear of their lives. Consequently, the rising insecurity of survivors has become a matter of national concern, and the challenges to the Gacaca process are threatening to hamper its progress. But this apparently is the only viable justice system for communities to carry out trials at community level, for it was there that the crime of genocide was committed in a mass-killing frenzy. Truth telling and confessions by perpetrators, and forgiveness by victims have been identified as crucial steps towards reconciliation, but the dilemma lies in the inherent contradictions in the application of these concepts: truth, confession and forgiveness.

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Introduction

The Rwanda genocide that took place in three months in 1994 claimed the lives of approximately 1 million people – a significant proportion of the total population in this small Central African country. The genocide that shocked the world and left the country so deeply traumatised has been described as unique because it was not just Hutu killing Tutsi, but husbands killing their wives, uncles killing their nephews, and mothers killing their children. As Kaggwa (2003:1) graphically described it: '[T]he fighting was hand to hand, intimate and unspeakable, a kind of blood lust that left those who managed to escape hollow eyed and mute.' People who knew one another well carried it out: neighbours killed their neighbours and teachers killed their students, while colleagues killed their colleagues at places of work, including hospitals and church premises. The story behind this scourge of violence is long and complex. The genocide has its origins in historical and contemporary patterns, from 19th- and 20th-century colonialism to 1990s political opportunism, and from structural adjustment to ethnic polarisation.

Thirteen years after the genocide, its effects are still visible and the most important task for all Rwandans is to engender reconciliation and justice. However, bringing about reconciliation, and at the same time bringing justice to thousands of victims and perpetrators, poses one of the greatest challenges to the government and society. Nevertheless, appreciable progress has been made by the current government under the Genocide Statutes of 1996, which facilitated the reduction of the huge numbers of those detained for genocide crimes to about 130 000 by December 2000. After provisional releases in 2003, May 2004 and July 2005 it is estimated that 50 000¹ detainees remain incarcerated. On the one hand, the trauma and suffering emanating from the detention of such a large number of people linger, a situation that will have enduring negative impact upon the entire society. On the other, the release of large numbers of prisoners accused of genocide crimes so that they can participate in the Gacaca justice process has become an additional psychological burden for the survivors and victims of the atrocities who have to live in the same communities as their tormenters.

The post-genocide population was roughly divided into three broad categories: the returnees, that is, a large proportion that returned from exile; those who did not leave the country during the genocide; and the *génocidaires*, who were accused of perpetrating the genocide and are in prison or are yet to be brought to justice. Admittedly, finding a balance between justice and reconciliation and between retribution and forgiveness is a delicate process and a major challenge for Rwandese society. Justice affirms the survivors and shows that a new moral order, in which there is no fear, has been created. Perpetrators are also wounded and cannot easily accept guilt and shame for their actions, thus healing and reconciliation become difficult:

- How do we affirm survivors and cast out the 'Tutsi' identity of the victims and the 'Hutu' identity of the perpetrators?

- How do we identify the perpetrators, who are living side by side with the victims, punish them and bring about reconciliation?

Yet reconciliation must be achieved and justice seen to be done. But the nature of reconciliation presents a problem. Reconciliation is inherently encumbered with many layers: at national, inter-community and intra-community levels, and at the level of the individual, who has to reconcile himself or herself with a life indelibly marked by genocide. Certainly, this multifaceted reconciliation requires a multi-dimensional approach to address these layers simultaneously, which is not a mean task by any standards. Aid workers and diplomats note the desirability of ‘justice’ and ‘development’ in post-conflict societies, but the dispassionate technical jargon used by outsiders risks making the healing sound simple, as if it were a straightforward four-step process. It is these challenges to justice and reconciliation in post-genocide Rwandan society that this contribution aims to elucidate.

Traditional justice system – Gacaca justice

Traditionally, as Rutikanga (2003) confirms, Gacaca served four important functions:

- It brought together the offender and the offended
- It sought the truth
- It addressed the conflict
- It reconciled the parties

Elders and community leaders in the traditional social setting would sit on the grass to hear, discuss and resolve conflicts between groups or individuals. The leaders would hear both parties and arbitrate. Depending on the nature of the conflict, they would adjudicate in a way that would ensure not only that justice was done, but also that the conflicting parties were reconciled. This was done as fairly and as democratically as possible, following laid-down rules and procedures that were known to the community; and served as a safeguard against the miscarriage of justice because of bias or incompetence of the adjudicators.

Restorative mechanism

With an evidently strong political will to bring about justice and reconciliation, the government has re-invented and formalised² the traditional Gacaca justice system.

The Gacaca process hinges on two laws. The 1996 Organic Law on the Organisation of the Prosecution of Offences constituting Crimes against Humanity (Genocide Law) established four categories of offenders liable to prosecution:

- Category 1 for leaders of genocide, notorious killers rapist and those who perpetrated acts of sexual torture
- Category 2 for murders and accomplices
- Category 3 for those who committed murder without intent to kill
- Category 4 for those who damaged property

According to the stipulations of the Gacaca Law of 2000, offenders in categories 2, 3 and 4 are eligible for commuted sentences following the provisions of the law. Pursuant to Organic Law no 16/2004 of 19/6/2004,³ the system was restructured, with the result that the district and provincial Gacaca courts were eliminated; the number of judges was reduced from 19 to nine; category 4 was done away with; and the other categories were expanded. This restructuring resulted in provisions for rape victims, estimated to be to be over 250 000 (Human Rights Watch 2004:6). Thus the Gacaca system, though based on the principles of the traditional justice system, has been adjusted to deal with the crimes of genocide, which are not only different from the intra-communal and interpersonal conflicts of traditional society, but also large in scale and complex in nature.

Restorative justice emanates from traditional mechanisms of conflict resolution in many parts of the world; and it has been 'argued that traditional forms of justice might be of great value as instruments in the reconciliation process in developing post-conflict countries' (Bloomfield et al 2003:112). The traditional Gacaca justice system is considered the most viable and tenable system of justice at community level, where a collective frenzy of hatred led to the dehumanisation of a section of the population and thus the attempt to exterminate them *en masse*, hence the decision to revive and adapt it. Gacaca in the post-genocide situation aims to serve similar functions, but in a totally different situation after the genocide:

- To reveal the truth about genocide
- To expedite trials for genocide suspects
- To eradicate the culture of impunity among Rwandans
- To foster reconciliation

■ To do justice to victims and perpetrators

The Gacaca courts are not just a way to deliver justice to the huge number of awaiting-trial prisoners, but are envisioned as a key restorative mechanism, a means to contribute to the national process of social reconstruction. The goal of Gacaca is to promote reconciliation by providing a platform for victims to express themselves, encouraging acknowledgements and apologies from the perpetrators, and facilitate the coming together of victims and perpetrators 'on the grass.' The restorative justice approach is predicated on the assumption that in a conflict situation victims and offenders have all been hurt. It therefore emphasises the reconciliation of the parties and the healing of wounds arising from the atrocities. Thus, as Bloomfield et al (2003) illustrated, it seeks to rebuild social relations and make it possible for victim and perpetrator to live in the community without hatred, fear or bitterness.

Essentially, that is the envisaged restorative role of the Gacaca: to provide a platform for telling the truth about the genocide that claimed a million lives; it is hoped that this will lead to healing for both victims and victimisers. Gacaca courts are empowered to hand down sentences that include community work schemes that can directly benefit the most destitute families of victims. Under these provisions, if someone confesses before being denounced, he or she is entitled to a substantial decrease in sentence. Importantly, confessions are acceptable only if they include 'revelation' of one's co-conspirators. Certainly, the application of the Gacaca justice system is an unprecedented legal-social experiment in its size and scope. Whether this new system will be able to accomplish either or both of these goals is, however, currently the topic of open debate (to which I shall allude below).

Challenges for restorative justice as exemplified by the Gacaca

While restorative justice has certain limitations, retributive justice may not be possible in certain post-conflict situations. For instance, in Rwanda, some see the current process as 'victors' justice', perhaps because the root causes of the conflict do not seem to have been addressed. The history of community hatred accumulated over decades does not seem to have been adequately approached, perhaps because there are different understandings and interpretations of the history of this society. Resentment nurtured over a long time cannot be wished away, even if people are not openly voicing it.

While restorative justice may be helpful, whereas retributive justice may be counterproductive, it is also likely to be perceived as injustice to victims who see reparation and even punishment as vital ingredients of justice. This is illustrated by the genocide survivor organisations that remain rather apprehensive of the Gacaca justice system. For instance, the umbrella

organisation for genocide survivors, Ibuka ('remember'), recently stressed the need for reparation, saying that justice cannot be achieved without addressing the issue. Some victims also express the feeling that the gravity of the genocide atrocities and the intensity of their suffering, as well as the enormous loss of lives and property, cannot be adequately compensated through forgiveness and restorative justice as mechanisms for dealing with the post-genocide situation. Some see it as 'cheap justice', which leaves them hurting.

The aims of Gacaca are noble, but the challenges make their achievement extremely difficult. Evidence shows that the process is caught between justice and reconciliation. For instance, although Gacaca courts can hand down sentences,⁴ the system is conceived as restorative justice rather than punishment, and is aimed at bringing about the healing and rehabilitation of both the victim and the perpetrator. The challenge here is not only to deal with the need for doing justice, but also to ensure restraint from an uncompromising pursuit of justice, which can lead to further conflict. As Estrada-Hollenbeck (2001:66) observed in his discussion of the attainment of justice through restoration, while people's perception of fairness is important, the challenge is to bring about reconciliation and justice among a people who are still experiencing deep pain and suffering. To ask victims to forgive appears to many to be an insensitive demand, and even an emotional burden. Is it possible to ask a woman who has lost six children, husband and relatives to forgive those responsible for her deep pain and loss? Again, without justice, forgiveness alone can perpetuate impunity.

Admittedly, it is difficult, in spite of the numerous efforts, to manage the complex interaction between justice and reconciliation. While retributive justice provided through the courts is necessary, it competes with the need for reconciliation that is essential for the emotional and social restoration of both victim and perpetrator. Some victims feel there is no justice when perpetrators who make confessions are forgiven, and their prison sentences are commuted. Hence, the question of justice as a prerequisite for reconciliation has hampered the search for unity and reconciliation. Some even accuse the government of providing simple solutions to difficult and sensitive issues, by encouraging people to confess, plead guilty, and in return have their sentences commuted. 'Does a confession subcontracted in this way allow them to really acknowledge their guilt which appeals for forgiveness? Is this not a way of refusing to administer justice' (Kigali nd:60).

Evidently, although the merits of Gacaca far outweigh the demerits, the system faces numerous obstacles. Some of these are intrinsic to the system, for example the scope: there are thousands of Gacaca jurisdictions all over the country and the logistics are difficult to manage. For instance, at the beginning of 2006 the re-demarcation of the provincial administration caused anxiety among the population. The National Executive Secretary for Gacaca courts had to assure the public that the process of re-demarcation would not affect the Gacaca system in any way; they would continue to run from cell to the national level.

It cannot be over-emphasised that Gacaca currently offers the most viable and perhaps the only way to bring the entire community to trial by the community and for the community, 'considering that such crimes were publicly committed in the eyes of the population, which thus must recount the facts, disclose the truth and participate in prosecuting and trying the alleged perpetrators' (Organic Law No 16/2004). However, this type of justice system, which involves community participation, is prone to abuse, vendetta and corruption, and indeed instances of bribery to induce acquittal or otherwise influence the verdict have been reported to the authorities. The frequency of such cases is difficult to ascertain because the Gacaca system covers the whole country and perhaps not all cases of corruption are reported. But in a number of cases, even the *inyangamugayo* – that is, the 'people of integrity' who constitute the 'Seat of the Gacaca Court' as stipulated in Section II Article 8 of Organic Law No 16/2004 – have been implicated not only in corruption, but also in genocide. This is becoming an additional burden on a system that is stretched to its limits.

Being people-driven, the Gacaca justice system should be participatory and restorative, but owing to the open public nature of the trials, the assembly can be inherently hollow and open to strife. For instance, in one case that received extensive media coverage, the judges were openly criticised during the trial, with some of the people in the assembly demanding withdrawal of the verdict. In this particular case, the local community was divided down the middle over the detention and trial of a local church leader because of allegations of complicity in genocide. In addition, when conflicting evidence is adduced by witnesses, it becomes difficult to conduct a fair trial or give a verdict.

One of the foremost challenges to the achievement of justice and reconciliation through the Gacaca trials is the prevalence of intimidation of genocide survivors and witnesses. In an attempt to obliterate evidence, some witnesses have had their houses burnt down, some have been attacked, and others killed. For instance, the alarming murders in Gikongoro in December 2003, after which the Senate set up an ad hoc commission to investigate, were carried out before the Gacaca trials began. Sources in Gikongoro indicated that the methods of killing were the same as those employed during the genocide and it was feared that this heinous crime would be a potential threat to the Gacaca courts, which were due to start in the following year. Since the Gacaca trials began in March 2005, there have been sporadic murders of witnesses and survivors, and it seems that as the momentum of the Gacaca process increases, the incidence of these killings is escalating. The case of a genocide survivor who was hacked to death by his neighbour over a disagreement with the victim's uncle, who is the president of a local Gacaca court, could well illustrate the level of insecurity at community level.

Consequently, many witnesses have refrained from testifying for fear of reprisal and this is impacting adversely on the whole process. National Human Rights Commission (NHRC) and Ibuka have consistently cited violations of human rights, especially against

survivors, in their reports; and in recent times, the rising insecurity of survivors and witnesses has become a matter of national concern. It has been brought to the attention of the Senate and the president of the republic, who issued a stern warning and directed that those involved should be brought to book

Perhaps the problem of intimidation may be solved if certain measures to protect the survivors and witnesses are put in place. However, it is even more difficult to deal with the subtle dilemmas emanating from the intrigues of witnessing against one's neighbour or family members. When one has to testify against a family member, one risks being ostracised by the family and even the community, but one risks prosecution by the state for declining to testify or withholding evidence, as the law clearly states 'that testifying on what happened is the obligation of every Rwandan patriotic citizen and nobody is allowed to refrain from such an obligation whatever reasons it may be'.⁵ Here one is caught between loyalty to family and loyalty to state. There is no easy way out of this catch-22 situation. It is doubtful that justice is done in these circumstances.

It is also emerging that the Gacaca process has become a source of insecurity not only for survivors and witnesses, but also for some of the perpetrators, who are afraid of vengeance for what they did. Consequently, a number of people fled the country for fear of reprisals for giving evidence at the Gacaca trials. As for the perpetrators, their fears can be best illustrated with the case of about 1 000 released prisoners who voluntarily went back to the prisons after they had been set free. They could not bear the thought of living side by side with the victims and their families in the communities, and were afraid of reprisals. They claimed that they felt safer behind the high walls of the prisons.

Germane to this, the unintended consequences of the process, which aims at reducing the number of detainees in prisons, will be the incarceration of thousands who are convicted of genocide crimes in the ongoing trials. Of about 700 000 people who are likely to be tried by Gacaca courts, many will be found innocent and set free, sentenced to do communal work or pay fines. The confessions of thousands of ex-prisoners and survivors during the trials will inevitably trigger an inexorable rise in the rate of incarceration by the thousands who will be incriminated by new evidence of complicity in the atrocities. How and where these people will be imprisoned is not an easy question to answer. Hence, it seems that the Gacaca process will ultimately not resolve the prison crisis.

Even if we estimate that only 10–20 per cent (Samset & Kubai 2005) of those who will stand trial will receive prison sentences, this risks leading Rwanda 'back to square one': a group of about 100 000 people in prison, with sentences varying in length, some up to 30 years. While the logistical challenges will be huge, an equally important question is to what extent is this scenario likely to help Rwandans to reconcile, with such a huge number of prisoners languishing in jail, leaving their families in poverty, stigmatised and traumatised?

Nature of reconciliation

In the last decade, there has been an appreciable increase of interest in the theme of reconciliation, with the South African Truth and Reconciliation Commission (TRC) setting new standards for troubled societies. In today's context of conflicts, oppression, civil wars, etc, reconciliation is becoming increasingly important. As Kaggwa (2003) pointed out, reconciliation is not a univocal concept. For some, it is an ideological device created to deal with past crimes and thereby face the future; some use it as a means of resolving conflict; and for others, it is a means of ensuring justice for the victims of violence. Finally, it can be a method of coming to terms with the experience of pain, and/or facilitating the moral reconstruction of a shattered society.

Reconciliation is a process, an over-arching process in search of truth, justice and forgiveness and ultimately the healing of a wounded society. Reconciliation makes it possible for former enemies to live together, without necessarily loving one another or forgetting the past. It makes possible the creation of a just society with changed attitudes and even beliefs. The challenge lies in redesigning age-old relationships to make it possible for genuine changes of attitudes that influence people's behaviour in conflict and in peace. Effective reconciliation is a safeguard against the recurrence of violence. But reconciliation is a process that has to take time and move at its own pace: it cannot be accelerated. It must be inclusive; all sectors of society, not only the victims and the perpetrators, must be included in the process, because violence has certain ramifications for the whole society.

Reconciliation still elusive

With an evidently strong political will, the government has embarked upon a path of social transformation with a view to rebuilding a 'united, reconciled and peaceful'⁶ society and has therefore put in place structures and mechanisms, foremost of them being the National Unity and Reconciliation Commission (NURC). NURC was appointed in 1999 with a broad mandate to facilitate national reconciliation. NURC was envisaged as working at the national and grassroots levels, and therefore it organises workshops, seminars and national summits on the theme of reconciliation. It also organises community events that provide the forum for discussing reconciliation; and seeks to promote civil education in *ingando* or solidarity groups for released prisoners and demobilised soldiers. However, its critics say that it is a government instrument that is too vertical, with little impact at grassroots.

The executive secretary of NURC underscored that 'attaining unity and reconciliation is a gradual process. There is need for collective policies towards reconciliation that will enable us solve the remaining issues once and for all such that unity can become a

complete reality.⁷⁷ The question of reconciliation is complicated by the need for justice, with which it is inextricably linked. Second, the inexorable pain and human suffering as a result of the genocide are deep and this has certain implications for reconciliation. It is necessary to acknowledge that it is not humanly possible for a deeply pained and traumatised survivor of genocide to forgive and forget while he or she continues to suffer the pain and trauma of genocide.

As many Rwandans say, forgiving is an effort that one makes in order to make life liveable, especially since victims and the ex-prisoners have to live together as neighbours again. One approach is to encourage truth telling and confessions by perpetrators. Thousands of detainees who confessed were released while awaiting trial, and jail sentences were commuted for others. But it is not humanly possible to ascertain the genuineness of the confession; and many of the prisoners and ex-prisoners admitted during interviews that they confessed because of the benefits to be gained.

This is not lost on the survivors and victims, who find themselves living side by side with the killers and even outnumbered by them in some places. The threat is unspoken, but it is there, it is palpable, and for these people, it is expected that reconciliation is still a long way off. Describing the experiences of living in the same communities, some survivors said that in spite of having forgiven and reconciled, they found it hard to look each other in the eye. Some even said that they felt that the killers still harbour 'bad feeling' towards them. Some survivors confess that they have not really forgiven and reconciled with their tormentors. A woman survivor once told me that she did not forgive the killer of her children and her brothers and sisters, though she said that she always greeted him whenever she met him. 'I forgave him because the church told me to forgive him. He confessed to killing only the two girls, but he killed all the members of my family,' she said. In such instances, it cannot be said that reconciliation has occurred yet. There are two sides to this case: first, she knows the man did not tell the whole truth, so he got away with a more grievous crime than was acknowledged, therefore, his confession is undoubtedly not genuine. Second, she did not genuinely forgive him, but did what the church instructed her to do as a Christian. Therefore, she lives with inexorable pain, and the presence of this man in the neighbourhood is a constant reminder of her loss.

The recently drafted national Policy on Unity and Reconciliation indicates that in spite of the much-publicised government-driven process, reconciliation is yet to be achieved. There are numerous challenges to reconciliation in this society, one of which is the political price of reconciliation. In civil wars, militia leaders and warlords are integrated into governments of national unity for the sake of peace and reconciliation. The merits and demerits of this practice in Africa are subjects for academic debate. In Rwanda, the government of national unity had to be inclusive of all communities, hence some high-ranking officers, government ministers, major generals, members of parliament and other prominent personalities in the government were implicated in the genocide; and

perhaps as new evidence is adduced during the Gacaca trials, more will be incriminated. These revelations are likely to have a ripple effect on fragile community relations.

By December 2005, the number of leaders implicated in the genocide had risen to 28 477.⁸ This situation poses a serious dilemma to the very notion of reconciliation. On the one hand, if the government were to screen its workforce, with a view to finding out who might be implicated in genocide, this would not only undermine the notion of unity and reconciliation, but also entrench the idea of 'victors' justice'. It is difficult for Rwandans to transcend or bridge their identity dichotomy. Such a process would be counterproductive to national reconciliation.

On the other, justice and reconciliation are inextricably linked and, as Ibuka has reiterated, there can be no reconciliation without justice. Justice must be done and those who are implicated must be brought to book. If a significant number of people in government lose their positions and are prosecuted, this might be construed as a process of purging members of one community from the government, and could awaken latent memories of the institutionalised forms of exclusion that characterised Rwanda society for decades before the genocide. Thus the government finds itself in a dilemma: the law has to take its course, and the Gacaca justice system has to prevail in due course, while accusations of retaining potential accomplices and perpetrators persist.

Though it has been said repeatedly that reconciliation is the way out of the spiral of violence and vengeance, reconciliation is not a choice for Rwanda, it is an urgent need and essential for all. The deep wounds of this society are not limited to the survivors and victims who were targeted during genocide, as is often said. The perpetrators are wounded in a different way by the consequences of their own actions. Many of them cannot easily accept responsibility for their deeds and come to terms with what they did. When asked why they killed, some say that they had 'lost' their 'human nature'; that they 'were not human beings' when they were hacking their friends, neighbours and even family to death. Others say they were 'merely following instructions from the government'.⁹

There is no doubt that these people live a life of denial, weighed down by the burden of conscious knowledge of the gravity of what they did to their fellow countrymen and women. Added to this is the burden of stigma, which is extended to their families, who may not have participated in the crimes. In a sense, they too are victims of the genocide ideology, which they embraced and implemented with conviction, and for which they are now paying dearly. Owing to the complexity of the situation, the perpetrators are seldom seen in this light. One can argue that if they were to be seen from this perspective, it would not only complicate the reconciliation process, but also obliterate the issue of justice. Yet it seems that there would be no reconciliation without justice. This is a vicious cycle and efforts at true reconciliation must address the whole gamut of the 'injury' of the Rwandan society.

Unity and reconciliation cannot be forced or rushed through certain mechanisms and events, as sometimes we see at orchestrated reconciliation events at which perpetrators and victims are brought together 'to be reconciled'. The most important avenues that can be used to bring about unity and reconciliation involve structures and institutions that promote and serve harmonious living, not coexistence. Coexistence implies tolerance of something that one would well do without. It does not imply a unified and reconciled society. Reconciliation must include a change in psychological orientation towards one another, whereby victims and perpetrators see themselves as members of the community and nation; accept and see the humane side of 'the other'; and endorse the possibility of a constructive human relationship or engagement with each other.

Reconciliation between groups after extreme violence is usually a gradual and often tedious process. For reconciliation to happen, attention must be given to the 'woundedness' of perpetrators. Reconciliation requires that perpetrators begin to open themselves to the suffering of others and to their own responsibility for their actions. Thus reconciliation must be driven in two directions: that of the perpetrator, and that of the survivor. This is not to say that the perpetrators should escape responsibility for their crimes, but that they need to be involved in the processes of social reconstruction as much as they were involved with its destruction. For such a small country as Rwanda, it was not difficult to mobilise the population to participate in a popular mass killing; similarly, the population can be mobilised to understand the causes of genocide and its consequences today on the entire population. This is necessary to eradicate the culture of impunity and foster reconciliation.

Conclusion

The question of justice in Rwanda has been complicated because the nature of the crime – the popular killing frenzy at community, family and individual levels – must be addressed at the same levels. Besides the logistical problems emanating from the enormity of the Gacaca process, the dilemmas and challenges of this situation are monumental because the killers and the survivors have no choice but to live together. The majority of those who committed the genocide are poor people and hence the question of reparation becomes untenable. Even if it were possible to give reparations, who would give and who would receive them? Would it not again be a matter of victors' justice? Yet survivors organisations and individuals are unequivocal in their claim that there is no justice without reparation and there is no reconciliation without justice. Sometimes there is no agreement as to whether healing comes before reconciliation or vice versa, but it seems that, when healing begins, prospects for reconciliation become better. When reconciliation occurs, it generates security and trust. But in Rwanda today, these two elements are largely absent; there is mutual mistrust, and the intimidation and killing of survivors and witnesses has enhanced age-old suspicion.

Understandably, these dilemmas hamper the achievement of justice and the resultant intimidation and the killing of survivors and witnesses is a desperate attempt to bury the evidence against the perpetrators. If this trend continues unabated, the quest for justice is likely to be replaced by fear of reprisal and a struggle for sheer survival, the two elements that would ultimately impede the Gacaca process, which apparently, in spite of its enormous challenges, is the only hope for Rwanda to address the spiral of violence that has left this society smarting in the pain of utter self-destruction.

It has been acknowledged that, eight years after the establishment of the NURC, reconciliation is still elusive. In spite of rigorous efforts by government to bring about unity and reconciliation among the citizens, significant results are yet to be achieved. In these circumstances, the people of Rwanda might find themselves between the devil and the deep blue sea.

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Notes

- 1 See Ministry of Justice Records 2003. In early 2003, the government released close to 25 000 people, many of them having confessed to participating in genocide. Again in 2005 (the third provisional since 2003) 36 000 suspects were released to await the Gacaca trials.
- 2 Gacaca jurisdictions with 11 000 tribunals countrywide were inaugurated in June 2002.
- 3 For the description of the structure and functions of the Gacaca courts, see Organic Law No 16/2004 of 19/6/2004 which 'established the organization, competence and functioning of Gacaca courts' adopted by parliament in June 2004, in the *Official Gazette of the Republic of Rwanda*, Special Issue No 43.
- 4 Recently, Gacaca courts have handed down sentences of up to the maximum of 30 years to those found guilty of crimes against humanity.
- 5 Organic Law No 16/2004 of 19/6/2004.
- 6 See Government of Rwanda, Vision 20202, Ministry of Economic Planning and Finance, Kigali, 2002.
- 7 F Ndagiza, Reconciliation still subtle. *The New Times*, 20 June 2006 [online]. Available at <http://www.rwandagateway.org/article.php3?id_article=2049> [accessed 29 December 2006].
- 8 See *The New Times*, 2 March 2006.
- 9 I have interviewed many inmates and ex-prisoners and recorded their testimonies for a book research project. The material is being analysed.